



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA



REPORT
on the High Level Meeting
between Presiding Officers and
Institutions Supporting Democracy (ISDs)
28 March 2017



Compiled by:
OFFICE ON
INSTITUTIONS SUPPORTING
DEMOCRACY



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and Institutions Supporting Democracy (ISDs)

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Photographs

1. Prof L. Masoma, Deputy Chairperson - CRL Rights Commission
2. Left to right: Dr Ntsiki Tshayingca – Mashiya, Acting Chairperson –NYDA; Dr Wallace Mqoqi, Commissioner, CGE
3. Left to right: Adv. Busi Mkhwebane, Public Protector; Mr. Themba Dlamini, CEO - Public Protector
4. Ms Thoko Mpumlwana, Acting Chairperson - CGE
5. Mr Glen Mashinini, Chairperson - IEC
6. Right to Left: Mr. K Modimoneng, Councillor – ICASA; Dr M Monareng – CEO: PanSALB; Ms T Mpumlwana –CGE Acting Chairperson
7. Ms Baleka Mbete, Speaker of the National Assembly
8. Ms Thandi Modise, Chairperson of the National Council of Provinces
9. Mr Lechesa Tsenoli, Deputy Speaker of the National Assembly





1. Executive Summary

On invitation of the Speaker of the National Assembly, Ms Baleka Mbete, the leadership of Institutions Supporting Democracy (ISDs) attended a meeting with the Presiding Officers of Parliament on 28 March 2017.

The meeting took place in Parliament and was attended by the Chairperson of the National Council of Provinces, Ms Thandi Modise, Deputy Speaker of the National Assembly, Mr Lechesa Tsenoli, the Chairpersons and Commissioners of ISDs and Chief Executive Officers, the Secretary of Parliament, Mr Gengezi Mgidlana and relevant staff members.

The purpose of the meeting was, amongst others, to:

Firstly, discuss the status of the recommendations emanating from the Workshop on the Report of the Ad hoc Committee on the Review of Chapter Nine and Associated Institutions, held on 11 September 2015.

Secondly, to provide a platform for Presiding Officers and Heads of Institutions Supporting Democracy (ISDs) to exchange ideas and to identify ways in which to process the Ad hoc Committee recommendations.

In summary, and flowing from the discussions, the high level meeting agreed to the following recommendations:

Further processing of the Ad hoc Committee on the Review of Chapter Nine and Associated Institutions (Asmal Report)

- Relevant recommendations in the Asmal Report to be finalised by 2017.
- Parliament to work with the Executive in determining its programme of action, and in particular to consult on how the Executive, on its side, wishes to address the matters raised in the report.
- The OISD to lay the groundwork, by preparing a base document which identifies issues for further discussion.

Single Human Rights Body

- A Task Team consisting of the Heads of relevant ISDs (CGE, CRL, SAHRC, and PanSALB), Presiding Officers and the Executive be convened by the OISD to produce a road map on the establishment of a Single Human Rights Commission.

- The OISD to continue with Terms of Reference for the Assessment of a “Single Human Rights Body”.

Tabling Process- Reports of Institutions Supporting Democracy (ISDs)

- ISD Reports to be tabled via the Registry in the Office of the Speaker, to ensure that these are correctly processed via Portfolio Committees.

Tabling of Country Reports

South Africa has ratified a number of treaties such as The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and annually reports to the United Nations, Commission on the Status of Women (CSW), which is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women.

- International Relations Division in Parliament to develop a calendar of reporting obligations for compliance and monitoring purposes.
- Combine all outstanding reporting obligations into a single document.
- Parliament to engage the Executive on the issue of Country Reports, these are to be tabled in Parliament for consideration before submitted to international bodies.

Appointments of ISD Commissioners

- The OISD is to ensure that the ISD vacancy register is shared with Portfolio Committees and other relevant stakeholders.
- Tighten mechanism on appointments to deal with time lapses.
- Develop and introduce criteria for the appointment of ISD Commissioners in Provinces.

Speakers’ Forum

- The Public Protector and the Auditor General to present at the next sitting of the Speakers’ Forum, which is to be held on 20- 21 April 2017.
- When necessary, the ISDs to request space to share information with the Speakers’ Forum.

Engagement with the Executive

- OISD to facilitate further engagement between the Presiding Officers and the ISDs on the recommendations that must be taken forward in the Asmal Report.

Stakeholder Engagement

- Induction programmes of public representatives should include a module on the role, the legislative frameworks, oversight and functions, of ISDs.
- GCIS to be engaged on including the work of Parliament and ISDs in the Yearbook that is published annually.
- The calendar of the next meetings with Presiding Officers and ISDs was noted, these are: 26 May 2017, 18 August 2017 and 25 November 2017.

“The Asmal report should be at the centre and we must get done with it this year”, Speaker Baleka Mbete.

2. Introduction

On 28 March 2017, the National Assembly Speaker, Ms Baleka Mbete convened a high-level meeting with Heads of Institutions Supporting Democracy (ISDs) in Parliament.

The meeting was attended by the Chairperson of the National Council of Provinces, Ms Thandi Modise, Deputy Speaker of the National Assembly, Mr Lechesa Tsenoli, the Chairpersons of ISDs, the Secretary of Parliament, Mr Gengezi Mgidlana and relevant staff members.

The purpose of the meeting was, amongst others, to:

Firstly, discuss the status of the recommendations emanating from the Workshop on the Review of the Ad hoc Committee on the Review of Chapter Nine and Associated Institutions.

Secondly, to provide a platform for Presiding Officers and Heads of Institutions Supporting Democracy (ISDs) to exchange ideas and to identify ways in which to process the Ad hoc Committee recommendations.

3. Apologies

For the meeting of 28 March 2017, apologies were tendered by the following persons:

1. Deputy Chairperson of the NCOP, Hon S. Tau.
2. Auditor General (AG), Mr T.K Makwetu.
3. The Chairperson of the South African Human Rights Commission (SAHRC), Prof B. C Majola.
4. The Acting CEO of the FFC, Mr V Mbethe.

4. Welcoming and Opening Remarks by Speaker Mbete

In her opening remarks, the Speaker noted that *“the meeting of 28 March 2017, was the third such important engagement”*, and asserted that Parliament recognised the significant role played by Institutions Supporting Democracy (ISDs) in the promotion of South Africa’s democracy. Underscoring the importance of Parliament and ISDs working together as a matter of principle, she said that this working relationship has to be agreed on, and that it was asked for by both Parliament and the ISDs. She emphasised the importance of leadership and ongoing positive engagement to achieve the goals and the prescripts of the Constitution.

Noting that Parliament has set aside the year 2017 for celebrating 20 years of South Africa’s world acclaimed Constitution, as well as the establishment of the National Council of Provinces (NCOP); the Speaker announced that a comprehensive annual programme of action, that would involve the entire legislative sector and every sector of the South African society, would be implemented to mark these critical milestones in the history of South Africa’s democracy. The programme

was officially launched on 3 March 2017 in Parliament, during an event which included the participation of pioneers, drafters and early drivers of the implementation of the Constitution.

The Speaker reiterated that the 20th celebration of the Constitution and the NCOP is a watershed moment for every sector, and every individual in South Africa; saying that it marks the coming of age of South Africa's constitutional democracy, which demonstrated high levels of resilience and maturity, sometimes under trying conditions. She mentioned that the youth were part of the gathering at the launch of the 20 year celebrations of the Constitution, and that *"it was a beautiful occasion to directly introduce young people to context and environment and participants of the constitution"*.

Urging them to reflect on their role as the overseers of democracy, the Speaker encouraged the ISDs to conceptualize and drive their own activities aimed at marking these seminal points in the history of South Africa. She also emphasised that the 20th year celebrations are an opportune time for Parliament and ISDs to reconsider the Asmal report recommendations.

In her closing remarks, the Speaker asserted that the drafting of the Constitution was the result of protracted deliberations and negotiations between various political parties and interest groups in South Africa, and that it was subjected to thorough scrutiny by the Constitutional Court, which was established in terms of the 1993 interim Constitution.



Ms Baleka Mbete, Speaker of the National Assembly



Ms Thandi Modise, Chairperson of the National Council of Provinces

5. Remarks by the Chairperson of the National Council of Provinces (NCOP), Ms Thandi Modise

Chairperson Modise noted that the NCOP was created to serve a distinct role, with a mandate to represent the provinces to ensure that provincial interests are taken into account in the national sphere of government.

She said that South Africa has seen a reversal in the gains made in matters of racism and women, and that the Institutions Supporting Democracy are vital to enhancing transformation. The Chairperson also underscored that the role of the Multi-Party Women's Caucus in the realisation of the Bill of Rights needs to be explored; and that the country needs to engage its stakeholders on the current gender machinery chosen to chart the best way forward.

In conclusion, the Chairperson touched upon the matter of the the Single Human Rights Body, saying that an independent feasibility study is necessary, and that it should inform Parliaments finalisation of the matter.

6. Forum of ISDs

The Speaker invited the ISDs to raise issues concerning their mandates; and in this regard,

the Deputy Chairperson of the CRL Rights Commission - representing the FISD noted that:

- The FISD rotates its leadership on an annual basis, and that the CRL Rights Commission is the current chair of the FISD.
- The FISD meets quarterly, with a mandate to consider issues of common interest; adding that collaboration and research are among the critical issues.
- Collaboration amongst ISDs is increasing, and where a provincial footprint exists, provincial offices are utilised to cut down on costs.
- Memoranda of Understanding (MoUs) among ISDs are in place to facilitate collaboration and to deal with issues of overlapping mandates and the duplication of functions.
- Reference was also made to the need for consistency regarding the provision of farewell functions for outgoing chairpersons of Commissions.

7. Agenda Item: Status Update on the Implementation of the Asmal Report

The section that follows refers to the discussions on the status update on the Workshop Report of the Ad hoc Committee on Chapter Nine and Associated Institutions, 11 September 2015.

The Speaker asserted that the Ad hoc Committee's Report on the Review of Chapter Nine and Related Institutions (Asmal Report), was the culmination of an intensive process carried out ten years into our new democracy.

It was noted that the Report on the functioning and effectiveness of Institutions Supporting Democracy, including the South African Human Rights Commission (SAHRC), the Commission for Gender Equality (CGE) and the Public Protector (PPSA), amongst others, was commissioned by the 3rd Parliament. The aim of the Ad hoc Committee's Review was to identify the effectiveness and relevance, individually and collectively, and the requirements to strengthen the ISDs.

The Speaker noted that the Ad hoc Committee unanimously agreed on the recommendation to amalgamate the SAHRC, the CGE, the National Youth Commission (now called the National Youth Development Agency), the Commission for Cultural, Religious and Linguistic Communities (CRL Rights Commission) and the Pan South African Language Board (PanSALB). This was to be done under a new umbrella institution to be called the South African Commission on Human Rights and Equality.

The Speaker noted that ISDs and Portfolio Committees have overlapping mandates and therefore further discussion is needed on how best to cooperate and further strengthen respective constitutional injunctions; adding that the exploration also makes sense given South Africa's fiscal challenges.

Recommendation on the Implementation of the Asmal Report

- Notably, the Speaker emphasised that the 5th Parliament needs to deal with the Asmal Report definitively by the end of 2017.
- A Task Team consisting of the Heads of relevant ISDs (CGE, CRL Rights Commission, SAHRC, and PanSALB), Presiding Officers and the Executive be convened by the OISD to produce a road map on the wisdom of the establishment of a Single Human Rights Commission.

"The Asmal report should be at centre and we must get done with it this year" Speaker Baleka Mbete

8. Agenda Item: Tabling of ISD Reports: Process

It was noted that though there was an improvement in the processing of Reports submitted to Parliament by ISDs, there remained significant challenges.

In particular, it was pointed out that Parliament needs to schedule time for meaningful engagement on the Reports of the ISDs.

It was emphasised that for monitoring purposes, it is necessary for ISDs to follow the correct Parliamentary channels, which would include tabling reports via the Registry located in the Office of the Speaker.

Tabling of Country Reports

The ISDs raised concern regarding the compilation and route of Country Reports. It was noted that South Africa had ratified or acceded to a number of conventions and treaties, and is therefore legally bound to put required provisions into place. Countries who ratify conventions are also required to submit national reports on measures taken to comply with treaty obligations.

It was noted that South Africa has ratified a number of treaties such as The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), and that it reports annually to the United Nation's Commission on the Status of Women (CSW), which is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women.

Deputy Speaker Tsenoli asserted that Parliament has to play a prominent role and address the challenges posed to the treaty implementation and monitoring process. The meeting noted the prevalence of a significant number of outstanding and overdue Country Reports. In order to fulfil reporting obligations and address the backlog of reports awaiting consideration, a template is needed so as to take stock. In Parliament, the OISD should work with the International Relations (IR) Division to develop the necessary calendar.

Recommendations related to Country Reports of ISDs

In as far as as Country Reports are concerned, the Deputy Speaker directed:

- It was recommended that the Executive table country reports to Parliament for consideration before reports are submitted to international bodies.
- It was further recommended that International Relations (IR) Parliament submit a calendar of International reports- so as to ascertain which Reports are due and their time frames. This template would become a monitoring tool on the implementation of obligations.

9. Agenda Item: Appointment of Members of ISDs

It was noted that the timeous appointment of ISD Commissioners had improved, but that more could be done in this regard. Parliament's involvement of Civil Society in the recent selection processes of the Public Protector, Commissioners of the

SAHRC, and the CGE were positive and enhanced South Africa's democratic processes.

Recommendations regarding the Appointments of Commissioners

- The need for constitutional and other provisions regarding the appointment and removal of Commissioners to be standardised.
- The OISD is to ensure that its vacancy register is shared with Portfolio Committees and other relevant stakeholders.
- Tighten mechanism on appointments to deal with time lapses.
- Develop and introduce criteria for the appointment of ISD Commissioners in Provinces.
- That the Chairs of relevant Committees must require Commissioner appointments in the plans of the relevant Committees.

10. Delinking the Budget of ISDs from State Departments

The Asmal Report recommends the delinking of the ISD budgets from state departments.

In the discussions, the Speaker noted that the issue of delinking the budget of ISDs from departments is a complex matter, and that the Executive needs to be engaged on this critical matter.

In response, the ISDs noted that the location of their budgets in the budgets of state departments is a salient challenge for the independence of the ISDs; that they wished to be delinked from departments and rather be linked to Parliament. It was noted that at the workshop of 11 September 2015, the issue was raised and that the stakeholders expressed themselves on the matter. In this regard, the process of engagement with stakeholders should be continued. The OISD is to facilitate the necessary processes to ensure engagements continue.

It was noted that the Asmal Report contains a number of recommendations directed at reshaping the relationship between Parliament and the Chapter Nine Institutions. The meeting agreed that it is necessary for Parliament to address the Executive in determining its programme of action, and in particular to consult on how the Executive wishes to address the matters raised in the report.

Recommendations

- It was recommended that further engagement between Parliament, the Executive, and ISDs on delinking the budgets of ISDs from departments is needed. The OISD is to facilitate this process.

11. The Speakers Forum

The Speakers' Forum sets the direction for the Legislative Sector and is the highest decision making-body of the sector that oversees the management and coordination of sector programmes. This Forum draws and develops the policy framework



that guides the work of the sector. The meeting, noting the mandate of the Speakers' Forum, identified it as an important stakeholder to which to highlight important issues relating to the sector by the ISDs.

Recommendations

- The ISDs and the Speakers' Forum should cooperate closely and hold consultations as and when necessary in pursuance of their respective mandates and for the realisation of the shared objectives.
- The ISD Heads were encouraged to utilise the Provincial Speakers Forum to raise issues of concern.

12. The Way Forward

The Speaker directed the OISD to work on the issues identified by the meeting; and directed that the processing of the Ad hoc Committee Report on the Review of Chapter Nine and Associated Institutions needed to be completed by end 2017.

The Speaker directed further engagement with all stakeholders on the matters identified in the meeting.

Annexure 1: Compendium of Tasks

Point of Discussion	Action Required	By Whom	By When
<i>1. Single Human Rights Body</i>	<ol style="list-style-type: none"> 1. Study to be conducted by Parliament 2. Convene Task Team with affected ISDs and Parliament 3. Parliament Position Paper 	<p>OISD to facilitate/Research</p> <p>OISD to coordinate</p> <p>OISD /Research</p>	<p>May 2017</p> <p>May 2017</p> <p>June 2017</p>
<i>2. Delinking of ISD Budgets</i>	<ol style="list-style-type: none"> 1. Convene consultative meeting with the Executive, ISDs and Presiding Officers 2. Produce a Parliamentary Position Paper 	<p>OISD to coordinate</p> <p>OISD and PBO</p>	<p>May 2017</p> <p>May 2017</p>
<i>3. International Relations – Country Reports</i>	<ol style="list-style-type: none"> 1. Register of Country Obligations to be maintained by IR 2. Identify Reporting Obligations re: Treaties and Conventions 3. Ensure that Country Reports are debated in Parliament 	STP, IR, NA	Immediate/ as relevant
<i>4. Appointment of ISD Commissioners</i>	<ol style="list-style-type: none"> 1. OISD to share vacancy register with Committees 2. Develop and introduce criteria to deal with ISD appointments in Provinces 	<p>OISD</p> <p>FISD</p>	<p>Ongoing /when relevant</p> <p>May 2017</p>
<i>5. Speakers' Forum</i>	<ol style="list-style-type: none"> 1. Public Protector and AG to present 	OISD to facilitate	20 April 2017
<i>6. Stakeholder Engagement</i>	<ol style="list-style-type: none"> 1. Introduce Induction Model for MPs, MPLs , Councillors on the role of ISDs 2. GCIS to be engaged on including a chapter on the work of Parliament and the ISDs 	<p>NA Table and OISD</p> <p>STP and OISD</p>	<p>Induction cycles</p> <p>Based on GCIS timeframes</p>

Annexure 2: Register of Attendance, 28 March 2017

Name and Designation	Institution
Ms B Mbete, MP, Speaker of the NA	Parliament of the RSA
Ms T Modise MP, Chairperson of the NCOP	Parliament of the RSA
Hon. L Tsenoli MP, Deputy Speaker NA	Parliament of the RSA
Dr Wallace Mqoqi	CGE
Ms T Mpumalwana	CGE
Prof L Mosoma	CRL
Councillor K Modimoeng	ICASA
Mr G Mashinini	IEC
Dr N Tshayingca- Mashiya	NYDA
Adv. B Mkhwebane	Public Protector
Dr M Monareng	PanSALB
Advocate R. K. Sizani	PSC
Mr T Dlamini	PPSA
Internal Delegation	Unit & Designation
Mr G Mgidlana	Secretary to Parliament- RSA
Ms M Brandt	Head of Office-Office of the Speaker
Mr K Zweni	Head: OISD
Mr P Davids	Head: Office of the Deputy Speaker
Mr M Kubheka	Advisor to the Speaker
Ms L Sait	Manager: OISD

Photographs

10. Dr Ntsiki Tshayingca – Mashiya, Acting Chairperson –NYDA
11. From left to right: Mr. K Modimoneng, Councillor – ICASA; Mr Gengezi Mgidlana, Secretary to Parliament; Ms Thandi Modise, Chairperson of the National Council of Provinces
12. From left to right: Dr Wallace Mqoqi, CGE Commissioner; Ms Thoko Mpumlwana, Acting Chairperson – CGE; Dr M Monareng – CEO: PanSALB
13. Adv. RK Sizani, Chairperson – Public Service Commission
14. Mr Gengezi Mgidlana, Secretary to Parliament
15. Right to left: Dr Wallace Mqoqi, CGE Commissioner; Dr Ntsiki Tshayingca – Mashiya, Acting Chairperson – National Youth Development Agency (NYDA)





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